

Application Serial No.: 10/777,757  
Reply to Office Action dated March 13, 2007

### REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-32 are presently active in this case, Claims 1, 8, 9, 19, and 24 having been amended and Claims 29-32 having been added by way of the present Amendment. Care has been taken such that no new matter has been entered.

Claims 4, 5, 6, 14, 15, 26, and 27 have been indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Newly added Claim 30 includes the subject matter of allowable Claims 4 and 5, newly added Claim 31 includes the subject matter of allowable Claim 6, and newly added Claim 32 includes the subject matter of allowable Claim 14. Thus, newly added Claims 30-32 are in condition for allowance.

In the outstanding Official Action, the disclosure was objected to for minor informalities. The specification has been amended as suggested in the Official Action, and to correct a minor informalities noticed upon review of the application. Accordingly, the Applicants request the withdrawal of the objection to the disclosure.

Claims 8, 9, and 24 were objected to for minor informalities. Claims 8, 9, and 24 have been amended as suggested in the Official Action. Accordingly, the Applicants request the withdrawal of the objections to these claims.

Claim 19 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claim 19 has been amended to remove the second range. New Claim 29 has been added that

is directed to the range removed from Claim 19. Accordingly, the Applicants submit that the claims are definite, and therefore request the withdrawal of the indefiniteness rejection.

Claims 1-3, 7-11, 16-18, 24, and 25 were rejected under 35 U.S.C. 102(b) as being anticipated by Abildgaard et al. (U.S. Patent No. 6,712,194). Claims 1-3, 7-11, and 16-18 were rejected under 35 U.S.C. 102(e) as being anticipated by Heitplatz (U.S. Patent No. 6,874,614). Claims 12 and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Abildgaard et al. in view of Polling (U.S. Patent No. 6,135,262). Claims 19-23 and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Abildgaard et al. Claims 12 and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Heitplatz in view of Polling (U.S. Patent No. 6,135,262). Claims 19-23 and 28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Heitplatz. For the reasons discussed below, the Applicants request the withdrawal of the art rejections.

Regarding the anticipation and obviousness rejections based on the Heitplatz reference, the Applicants submit that these rejections have been rendered moot. The Heitplatz reference issued and was published on April 5, 2005, and was based on an application filed on September 17, 2003, which was published on April 15, 2004. Additionally, the present application was filed in the United States on February 13, 2004, and claims foreign priority to Netherlands 1022682 filed on February 14, 2003. Thus, the publication of the Heitplatz reference and the publication of the application thereof are not prior art under 35 U.S.C. 102(a) or (b) with respect to the present application due to the earlier U.S. filing date of the present application. Additionally, it is noted that the foreign filing date of the present application is prior to the U.S. filing date of the Heitplatz reference.

Furthermore, the Applicants have submitted concurrently herewith an English language translation of the foreign priority document, Netherlands 1022682, for the present application, thereby perfecting foreign priority. Thus, the foreign priority document antedates the Heitplatz reference, thereby removing the Heitplatz reference as a prior art reference under 35 U.S.C. 102(e). (See, e.g. MPEP §706.02(b).) Accordingly, the Applicants request the withdrawal of the anticipation and obviousness rejection based on the Heitplatz reference.

Regarding the anticipation rejection of independent Claim 1 based on the Abildgaard et al. reference, the Applicants note that a claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference. As will be demonstrated below, the Abildgaard et al. reference clearly does not meet each and every limitation of independent Claim 1.

Claim 1 recites a device for sorting products comprising, among other features, a tilting mechanism configured to tilt a supporting surface about an axis of tilt parallel to a conveying path, wherein the tilting mechanism comprises a drive device and at least one cam configured to be rotated by the drive device about an axis of rotation extending parallel to the axis of tilt when the cam moves within a path of a camway so as to cause the support member to tilt about the axis of tilt between a neutral position and an extreme position, and the axis of rotation is spaced apart from the cam by a distance. The Applicants submit that the Abildgaard et al. reference does not disclose all of the above limitations.

The Abildgaard et al. reference describes a tilting mechanism for a sorting conveyor that includes a first smooth wheel (2) and a second smooth wheel (4). The first smooth wheel

(2) has a fixed center at a fixed position on an apex of the housing (17). The second smooth wheel (4) is attached to tilting part (6). As the tilting part (6) tilts, a non-linear path (1) on the tilting part (6) slides over the first smooth wheel (2) and the second smooth wheel (4) slides in a vertical direction along a linear path (5) on the housing (17).

The Official Action cites tilting part (6) for the teaching of a cam as recited in Claim 1 of the present application, and smooth wheel (2) for the teaching of a camway as recited in Claim 1. Amended Claim 1 recites a cam that moves within a path of a camway. As is evident from a review of the figures in the Abildgaard et al. reference, the wheel (2) does not include a path, within which the tilting part moves. Additionally, for the reasons set forth in the remarks of the previously filed Amendment, the Abildgaard et al. reference clearly also does not disclose the cam as recited in Claim 1, when the wheel (2) is cited for the teaching of the cam.

Accordingly, the Applicants submit that the Abildgaard et al. reference does not disclose all of the limitations recited in Claim 1. Thus, the Applicants respectfully request the withdrawal of the anticipation rejection of Claim 1.

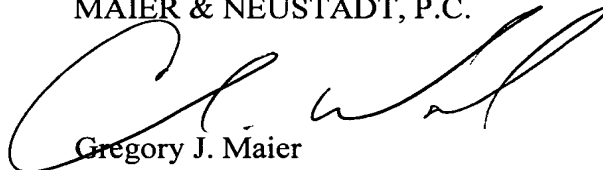
The rejected dependent claims are considered allowable for the reasons advanced for Claim 1 from which they depend. These claims are further considered allowable as they recite other features of the invention that are neither disclosed nor suggested by the applied references when those features are considered within the context of Claim 1.

Application Serial No.: 10/777,757  
Reply to Office Action dated March 13, 2007

Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read 'G. Maier', is written over the printed name of Gregory J. Maier.

Gregory J. Maier  
Registration No. 25,599  
Attorney of Record

Christopher D. Ward  
Registration No. 41,367

Customer Number

**22850**

Tel. (703) 413-3000  
Fax. (703) 413-2220  
(OSMMN 10/01)

GJM:CDW:brf

I:\atty\cdw\24xxxx\248775US6\am2.doc